

Arkansas State Board of Embalmers and Funeral Directors
Board Meeting

MINUTES

Tuesday, December 11, 2012, 9:00am
101 East Capitol, Little Rock, AR
Conference Room C

1. President James Terry Woodard called the meeting to order. Members present were: Bobby Thurman, Patricia Roberts, Jerry Adams, Bobby Burns, and Mary Ann Allen. Members absent were: Eddie Hawkins, Jr. Staff that were present: Amy Goode, Executive Secretary, Boyd Heath, Inspector, and Mark Ohrenberger, Board Counsel.

2. ***License Reinstatement- Gary Brown***

Mr. Brown's license has been delinquent since 2008; per Board rule Mr. Brown is appearing today to seek approval for reinstatement. Mr. Brown has received 6 hours of continuing education on October 30, 2012. He had quit working for the funeral home he had been employed due to lack of business and started another line of work. He just simply forgot to renew them. He just stepped away from the funeral business and failed to keep them current. Mr. Brown would like to get back in the business and plans to open a funeral home.

Thurman inquired how long he had been licensed. Mr. Brown stated he had been licensed since 2004. Executive Secretary verified that was correct.

Motion made by Thurman to allow Mr. Brown to reinstate his Funeral Director license with the proper fees being paid, seconded by Roberts, all in favor. Motion carried.

3. ***Administrative***

Motion made by Thurman, the Board moves to approve October 2012 minutes as written, second by Allen, all in favor. Motion carried.

Motion made by Roberts, the Board moves to approve the October – November 2012 Trial Balance and DF&A reports as printed, second by Burns, all in favor. Motion carried.

4. ***Complaints***

- a. **Jessie Thompson v. Cornwell Funeral Home, Inc., Rush Cornwell, Jr. Funeral Director and Manager - Case#12-10**– Executive Secretary updated the Board that this was a second review of this complaint. The Board at their October meeting had requested Mr. Cornwell submit a written statement from the deceased's wife Dorothy Caery, that she authorized the embalming. On November 28, 2012 the Board office did receive a statement from Mrs. Caery that did in fact state she did authorize the embalming of her husband Derald Caery. Motion made by Burns to dismiss the complaint filed by Jessie Thompson against Cornwell Funeral Home, seconded by Adams, all in favor. Motion carried.
- b. **Board v. Fowler Funeral Home, Billy Hankins FD and Manager, Robert Mortimer, Owner – Case#12-11**– Executive Secretary updated the Board that this was a second review of this complaint. The funeral home has previously been in violation for Rule IV 2 (4). The Board Inspector res-inspected and verified 5 caskets were in stock. Motion made by Burns to dismiss the complaint since the matter has been resolved, seconded by Adams, all in favor. Motion carried.

- c. **Karanya Dudley V. Lyles Funeral Home, Roy Lyles, FD and Manager – Case#12-12-** Executive Secretary updated the Board that this was a second review of this complaint. The Board had instructed Executive Secretary to inquire of Ms. Dudley clearly her desires of the Board. Ms. Dudley did respond to her request, the Board was still unclear as to what the complainant is seeking. Motion made by Adams to have Mr. Heath, Inspector/Investigator to interview Ms. Dudley to further determine her requests from the Board and Lyles Funeral Home. Seconded by Roberts, all in favor. Motion carried.
- d. **Board V. Richardson Memorial Funeral Home, Booker Johnson, FD and Manager, Javier Buck, Owner – Case#12-13–** Executive Secretary updated the Board this was a second review of this complaint. The Board had requested the Inspector to re-inspect for the compliance of Rule IV 2 (4). Mr. Heath did that inspection and found them in compliance with the rule. Motion made by Thurman to dismiss this portion of the complaint since they are in compliance. Seconded by Roberts, all in favor. Motion carried.
 - i. In addition to the casket compliance violation the Board also found Mr. Javier Buck to have been embalming without current licenses and during the initial routine inspection Mr. Heath was informed by an employee that Mr. Javier Buck did most of the embalming, but Mr. Booker Johnson did the remainder. The Board had instructed the Executive Secretary to initiate a Board complaint to Mr. Buck to solely answer the embalming without a license issue. We did receive answers from Buck and Johnson. Since the complaint was issued Mr. Buck has paid all the late fees and reported six hours of continuing education. The Board had received documentation from the Health Department that Mr. Buck was listed as the embalmer on death certificates during the time of lapsed licenses. The Board was in agreement that the matter should be addressed, since Mr. Buck did work without a license for a period of 2 years. Mr. Buck did admit guilt in his answer. The Board was concerned that he did not report enough hours. The Executive Secretary required he get six (6) hours at the time of renewal and payment of back fees. The attorney stated we could bring him in for hearing for working without a license and as a sanction require additional CE hours. Motion made by Burns to charge Javier Buck with unlicensed embalming and funeral directing and to set the matter for hearing. Seconded by Adams, all in favor. Motion carried.

The Board began a discussion concerning death certificates. Adams felt the Department of Health should have never have removed the embalmer's signature. He felt that it leaves them open to fraud. After much discussion the Board asked the attorney to correspond with his counterpart at the Health Department. Ohrenberger stated that if the changes were by rule then the Health Department could promulgate changes by rule change process.

- e. **Perryman, Sullivan, Davis v. Dubisson Company, Darryl Miller, Funeral Director and Manager – Case #12-16 –** The Board discussed the complaint and based on the information that was provided to them decided the matter should be addressed at a hearing. There was a price difference that the Board determined need to be clarified. Motion made by Roberts to set the matter for hearing on misrepresentation against Darryl Miller and Dubisson Funeral Home. Seconded by Adams, all in favor. Motion carried.
- f. **Board v. Brian Gray – Case #12-17 –** Executive Secretary updated the Board the reason for this complaint. Mr. Gray had received his license in error per statute 17-29-311 (a) (11) fraud or misrepresentation in obtaining a license. Mr. Gray had appeared before the Board in 2009 and was granted permission to enter into the apprenticeship program with the stipulation that he appear back before the Board prior to his license(s) being issued. Mr. Gray was issued his funeral director

license in 2011. The Board determined Mr. Gray needed to appear before the Board for a hearing. Motion made by Adams to set Board v. Brian Gray for a hearing, seconded by Roberts, all in favor. Motion carried.

- g. **Board v. Texarkana Funeral Home, Eddie Hawkins, Funeral Director and Manager – Case #12-18** – Executive Secretary updated the Board that the Board had received complaint from the Arkansas Insurance Department about the Texarkana Funeral Home not having proper license to sell prepaid insurance in Arkansas. Since the complaint was received, the Board did receive a response from the owner and manager of the Texarkana Funeral Home that stated they were working diligently with the Arkansas Insurance Department to rectify the problem. We also did receive from Mr. Rick Toland from the Insurance Department that verification as well. Motion made by Adams to dismiss the complaint against Texarkana Funeral Home since the issues were addressed and rectified in a timely manner, seconded by Thurman, all in favor. Motion carried.

5. **Board Discussion**

- a. **Rodney Gibbons**– Executive Secretary explained to the Board that Mr. Gibbons had not reported continuing education for 2013 or 2012 according to Mr. Gibbons the previous Executive Secretary had told him he did not have to have continuing education since he was over 65 and licensed over 20 years. Mr. Gibbons has only been licensed in Arkansas since 2002. The current Executive Secretary explained to Mr. Gibbons that our law was written pertaining to Arkansas licenses and that he would need the hours to renew. The Board agreed that in order to claim that exemption on your license renewal you must be 65 or older and licensed 20 consecutive years in Arkansas. Motion made by Roberts that Mr. Rodney Gibbons be notified that he report 6 hours continuing education for 2012 and subsequent years, seconded by Adams, all in favor. Motion carried.
- b. **Health Subcommittee** – Executive Secretary updated the Board that herself and Jerry Adams had attended the meeting. At that meeting the Health Department explained to the Committee that they were not able to take on anymore Board's or Commissions at this time. Senator Malone stated that he would like to withdraw his comments from the last meeting and the Committee decided to adjourn the meeting. The audience was advised to take a serious look at how the complaints and investigations were handled. This issue will be addressed again in the next biennium.
- c. **Complaint Procedures** – Executive Secretary explained to the Board that our complaint procedures need to be addressed and handled differently in the future. The Executive Secretary and attorney explained that most complaints are processed and investigated by a complaint committee, normally composed of the director, professional member, and the attorney. Ohrenberger explained that if we had more than one board member to participate it would have to be noticed as a public meeting. Ohrenberger explained he would research the rules to see how we should handle this issue and perhaps draft some rules changes that would outline the complaint procedures. Motion made by Burns to have the Executive Secretary and attorney to research other Boards complaint procedures and to adopt a procedure; then at the next meeting form that complaint committee, seconded by Roberts, all in favor. Motion carried.
- d. **2013 109th Annual Meeting Convention** – Bobby Burns, Bobby Thurman, Eddie Hawkins, Jr., and James Terry Woodard determined they were the members available to attend this year. The Executive Secretary explained she would not attend this year since the baby is still so small. The Board will attend the available Board Member Training that will start on February 26, 2012. Motion made by Thurman depending on flight arrangements to allow for Monday – Thursday night stay for the convention, seconded by Burns, all in favor. Motion carried.
- e. **Exam Update** – Executive Secretary explained that we are set to go live with the new testing procedures January 1, 2013. The Conference does have available now the study guide on their website for a fee of \$25. They have been given a list of approved candidates that are currently eligible through January 31, 2013. We will update that list monthly. Executive Secretary inquired of the attorney if the ADA accommodations will be charged can be passed along to the test candidate. Ohrenberger stated that “no” they could not. The Board discussed striking the language from the rules concerning the oral exam. Currently oral exams will be given at a regular scheduled meeting after successful passing of the written exam. If the oral exam is the only item apprentices are lacking accommodations will be made for them to meet with their Board Member representative from their district. Board Members discussed having a meet and greet with

apprentices if the oral exam is not given. Heath explained that apprentices do not always complete case reports correctly. The Board opened a discussion about holding training for perspective apprentices. Have an apprenticeship orientation that will allow for the Board to meet them and give them the training they need. Motion made by Thurman that the Board explore the possibility for offering training to new apprentices, seconded by Adams, all in favor. Motion carried.

- f. **Credit Card Processing Machine** – Executive Secretary explained to the Board that there have been several requests made for the office to be able to take credit cards. Motion made by Adams to acquire the machine to take the credit cards, seconded by Roberts, all in favor. Motion carried.
- g. **Hotel Reservations** – Board decided to keep the process the same. Executive Secretary will continue to make their reservations for the meetings.
- h. **Effie Collins lawsuit update** – Attorney has been staying up to date reading the briefs and we have a motion to dismiss still pending; the plaintiffs' lawyer got a short extension of time to file his response which is due on Thursday, December 13th. He further stated he felt our motion is very well made and well stated. He feels strongly about its validity and anticipates our request being granted. In Federal court we do not have wait on a judge to set a hearing date. He felt we could to have a ruling on the motion sometime in February.

6. **Meeting Dates**

- a. Next meeting set for February 12, 2013 at 9:00am.

7. **Adjournment**

- a. Motion made by Adams to adjourn, second by Roberts, all in favor. Motion carried.